



Contract #

059153

STATE OF UTAH CONTRACT

1. **CONTRACTING PARTIES:** This contract is between the following agency of the State of Utah: **Department of Transportation**, Agency Code: **810, Research Division**, referred to as (STATE), and the following **CONTRACTOR:**

University of Utah, Office of Sponsored Projects

Name

1471 Federal Way

Address

Salt Lake City
CityUtah
State84102
Zip**LEGAL STATUS OF CONTRACTOR**

- ☐ Sole Proprietor
☐ Non-Profit Corporation
☐ For-Profit Corporation
☐ Partnership
☒ Government Agency

Contact Person **Elliot C. Kulakowski, Ph.D.** **Phone # 801-581-6903** **Email** elliott.kulakowski@osp.utah.edu
Federal Tax ID **Exempt** **Vendor # 17361G** **Commodity Code** 9567000000

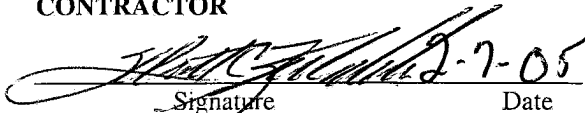
2. **GENERAL PURPOSE OF CONTRACT:** The general purpose of this contract is to provide: **Evaluating design- build contracting methods for statewide Transportation Improvement Plan (STIP) projects 2005-2007**
3. **PROCUREMENT:** This contract is entered into as a result of an approved Sole Source
4. **CONTRACT PERIOD:** Effective date **01 February 2005** Termination date **31 January 2006**, unless terminated early or extended in accordance with the terms and conditions of this contract.
5. **CONTRACT COSTS:** CONTRACTOR will be paid a maximum of **\$74,999.00** for costs authorized by this contract.
6. **ATTACHMENT A:** Standard Terms and Conditions
ATTACHMENT B: Scope of Work and Pricing
ATTACHMENT C: Special Terms and Conditions

Any conflicts between Attachment A and other Attachments will be resolved in favor of Attachment A.

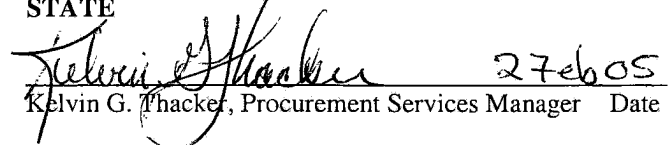
7. **DOCUMENTS INCORPORATED INTO THIS CONTRACT BY REFERENCE BUT NOT ATTACHED:**
- All other governmental laws, regulations, or actions applicable to the goods and/or services authorized by this contract.
 - Utah State Procurement Code, Procurement Rules.

IN WITNESS WHEREOF, the parties sign and cause this contract to be executed.

CONTRACTOR


Signature Date

Elliot C. Kulakowski, Director**STATE**


Kelvin G. Thacker, Procurement Services Manager Date

Rukhsana Lindsey, UDOT, Division Research Date

CONTRACT RECEIVED AND
PROCESSED BY

Director, Division of Finance Date

FEB 11 2005

Denice McCarthy, Purchasing Agent
Agency Contact Person

801.965.4761
Telephone Number

801.9654073
Fax Number

dmccarthy@utah.gov
Email Address

(Revision 08/26/2003)

ENT'D MAR 30 2005
JUL 23 2005

STANDARD TERMS AND CONDITIONS

1. **AUTHORITY:** Provisions of this contract are pursuant to the authority set forth in 63-56, Utah Code Annotated, 1953, as amended, Utah State Procurement Rules (Utah Administrative Code Section R33), and related statutes which permit the State to purchase certain specified services, and other approved purchases for the State.
2. **CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE:** The provisions of this contract shall be governed by the laws of the State of Utah. The parties will submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Contract or the breach thereof. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
3. **LAWS AND REGULATIONS:** Any and all supplies, services and equipment furnished will comply fully with all applicable Federal and State laws and regulations.
4. **RECORDS ADMINISTRATION:** The Contractor shall maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the Contractor for costs authorized by this contract. These records shall be retained by the Contractor for at least four years after the contract terminates, or until all audits initiated within the four years, have been completed, whichever is later. The Contractor agrees to allow State and Federal auditors, and State Agency Staff, access to all the records to this contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.
5. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the State of Utah, unless disclosure has been made in accordance with 67-16-8, Utah Code Annotated, 1953, as amended.
6. **CONTRACTOR, AN INDEPENDENT CONTRACTOR:** The Contractor shall be an independent contractor, and as such, shall have no authorization, express or implied, to bind the State to any agreements, settlements, liability, or understanding whatsoever, and agrees not to perform any acts as agent for the State, except as herein expressly set forth. Compensation stated herein shall be the total amount payable to the Contractor by the State. The Contractor shall be responsible for the payment of all income tax and social security amounts due as a result of payments received from the State for these contract services. Persons employed by the State and acting under the direction of the State shall not be deemed to be employees or agents of the Contractor.
7. **INDEMNITY CLAUSE:** The Contractor agrees to indemnify, save harmless, and release the State OF UTAH, and all its officers, agents, volunteers, and employees from and against any and all loss, damages, injury, liability, suits, and proceedings arising out of the performance of this contract which are caused in whole or in part by the negligence of the Contractor's officers, agents, volunteers, or employees, but not for claims arising from the State's sole negligence.
8. **EQUAL OPPORTUNITY CLAUSE:** The Contractor agrees to abide by the provisions of Title VI and VII of the Civil Rights Act of 1964 (42USC 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, the Contractor agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the work place.
9. **SEPARABILITY CLAUSE:** A declaration by any court, or any other binding legal source, that any provision of this contract is illegal and void shall not affect the legality and enforceability of any other provision of this contract, unless the provisions are mutually dependent.
10. **RENEGOTIATION OR MODIFICATIONS:** This contract may be amended, modified, or supplemented only by written amendment to the contract, executed by the same persons or by persons holding the same position as persons who signed the original agreement on behalf of the parties hereto, and attached to the original signed copy of the contract.
11. **DEBARMENT:** The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract), by any governmental department or agency. If the Contractor cannot certify this statement, attach a written explanation for review by the State. The Contractor must notify the State Director of Purchasing within 30 days if debarred by any governmental entity during the Contract period.
12. **TERMINATION:** Unless otherwise stated in the Special Terms and Conditions, this contract may be terminated, with cause by either party, in advance of the specified termination date, upon written notice being given by the other party. The party in violation will be given ten (10) working days after notification to correct and cease the violations, after which the contract may be terminated for cause. This contract may be terminated without cause, in advance of the specified expiration date, by either party, upon 30 days prior written notice being given the other party. On termination of this contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination.
13. **NONAPPROPRIATION OF FUNDS:** The Contractor acknowledges that the State cannot contract for the payment of funds not yet appropriated by the Utah State Legislature. If funding to the State is reduced due to an order by the Legislature or the Governor, or is required by State law, or if federal funding (when applicable) is not provided, the State may terminate this contract or proportionately reduce the services and purchase obligations and the amount due from the State upon 30 days written notice. In the case that funds are not appropriated or are reduced, the State will reimburse Contractor for products delivered or services performed through the date of cancellation or reduction, and the State will not be liable for any future commitments, penalties, or liquidated damages.
14. **SALES TAX EXEMPTION:** The State of Utah's sales and use tax exemption number is E33399. The tangible personal property or services being purchased are being paid from State funds and used in the exercise of that entity's essential functions. If the items being purchased are construction materials, they will be converted into real property by employees of this government entity, unless otherwise stated in the contract.
15. **WARRANTY:** The contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah apply to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will

be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the State has relied on the contractor's skill or judgment to consider, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: The contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.

16. **PUBLIC INFORMATION:** Contractor agrees that the contract will be a public document, and may be available for distribution. and Contractor gives the State express permission to make copies of the contract and/or of the response to the solicitation in accordance with the State of Utah Government Records Access and Management Act. The permission to make copies as noted will take precedence over any statements of confidentiality, proprietary information, copyright information, or similar notation.
17. **DELIVERY:** Unless otherwise specified in this contract, all deliveries will be F.O.B. destination with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance when responsibility will pass to the State except as to latent defects, fraud and Contractor's warranty obligations.
18. **ORDERING AND INVOICING:** All orders will be shipped promptly in accordance with the delivery schedule. The Contractor will promptly submit invoices (within 30 days of shipment or delivery of services) to the State. The State contract number and/or the agency purchase order number shall be listed on all invoices, freight tickets, and correspondence relating to the contract order. The prices paid by the State will be those prices listed in the contract. The State has the right to adjust or return any invoice reflecting incorrect pricing.
19. **PAYMENT:** Payments are normally made within 30 days following the date the order is delivered or the date a correct invoice is received, whichever is later. All payments to the Contractor will be remitted by mail unless paid by the State of Utah's Purchasing Card.
20. **PATENTS, COPYRIGHTS, ETC.:** The Contractor will release, indemnify and hold the State, its officers, agents and employees harmless from liability of any kind or nature, including the Contractor's use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article or appliance furnished or used in the performance of this contract.
21. **ASSIGNMENT/SUBCONTRACT:** Contractor will not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of the State.
22. **DEFAULT AND REMEDIES:** Any of the following events will constitute cause for the State to declare Contractor in default of the contract: 1. Nonperformance of contractual requirements; 2. A material breach of any term or condition of this contract. The State will issue a written notice of default providing a ten (10) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains, after Contractor has been provided the opportunity to cure, the State may do one or more of the following: 1. Exercise any remedy provided by law; 2. Terminate this contract and any related contracts or portions thereof; 3. Impose liquidated damages, if liquidated damages are listed in the contract; 4. Suspend Contractor from receiving future solicitations.
23. **FORCE MAJEURE:** Neither party to this contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The State may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.
24. **PROCUREMENT ETHICS:** The Contractor understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan or reward, or any promise thereof to any person acting as a procurement officer on behalf of the State, or who in any official capacity participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization (63-56-73, Utah Code Annotated, 1953, as amended).
25. **CONFLICT OF TERMS:** Contractor Terms and Conditions that apply must be in writing and attached to the contract. No other Terms and Conditions will apply to this contract including terms listed or referenced on a Contractor's website, terms listed in a Contractor quotation/sales order, etc. In the event of any conflict in the contract terms and conditions, the order of precedence shall be: 1. State Standard Terms and Conditions; 2. State Special Terms and Conditions; 3. Contractor Terms and Conditions.

(Revision date: Nov 21, 2003)

ATTACHMENT B

SCOPE OF WORK

Evaluating design-build contracting methods for Statewide Transportation Improvement Plan (STIP) projects: 2005-2007

C1. WORKPLAN

C1.1 Background

Highway construction impacts travel time and causes vehicular delays for road users. Innovative construction techniques like the design build, or fast track method can reduce the time of construction activity when compared to traditional build methods, thereby resulting in reduced network delay. The faster the construction activity occurs, the lower the impact on users and the higher the savings in delay cost. This study assesses the travel and cost impacts due to traditional build and fast track techniques for the Utah Department of Transportation's five-year road improvement programs which are a part of the Statewide Transportation Improvement Plan (STIP).

The build scenarios will be modeled from 2005 to 2010 using a macroscopic transportation planning simulation model called VISUM. A partial network algorithm was developed to run traffic assignments on reduced networks that represented the project areas. Five Statewide Transportation Improvement projects will be identified for analysis. The simulation results will be quantified in terms of measures of effectiveness viz. vehicle miles of travel, vehicle hours of delay and vehicle hours of delay/vehicle miles of delay (second delay). Finally, the delay will be converted into daily delay cost to assess the cost savings and suggest the best contracting technique for the projects.

C1.2 Research Objectives

This study analyzes the STIP projects for Fast-Track (FT) and Traditional Build (TB) contracting methods, to identify the advantages and disadvantages in terms of delay savings. The study will analyzing five STIP projects and model various build scenarios using simulation tools. The modeling will span 2004 to 2010. The research objectives are:

1. Assess the delay associated with FT and TB contractual arrangements.
2. Assess the costs and savings associated with FT and TB contractual arrangements.

C1.3 Work Tasks

1. Define the project areas for all five identified STIP projects
2. Model various build scenarios using a simulation model
3. Define the measures of effectiveness (MOEs) to analyze the simulation results
4. Simulate the scenarios for multiple periods of the day to understand travel behavior
5. Estimate the travel, cost, and safety impacts of the projects
6. Recommend the best contracting technique for each project

C2. SCHEDULE & DELIVERABLES

The project will run from January 1, 2005 to December 31, 2007. The following are deliverables:

1. Establish and meet Technical Advisory Committee - February 28, 2005
2. Identify 5 STIP Projects – March 31, 2005
3. (Utah County Model will be available by March 31, 2004)
4. Present findings through presentations/posters – Oct 1, 2005, 06,07
5. Submit draft final reports for approval – November 1, 2005, 06,07
6. Submit final annual reports – December 31, 2005, 06,07

C3. BUDGET

	Personal Services	
50200	Faculty Salaries	\$5,400
53000	Hourly Pay (Grad Students)*	\$51,840
59000	Employee Benefits	\$7,020
	<i>Total Personal Services</i>	<u>\$64,260</u>
	Non-Personal Services	
60100	Travel Domestic, In-State	\$900
62600	Lab and Technical Supplies	\$2,400
63000	Printing and Photocopying	\$450
63400	Telephone-Long Dist/WATS	\$36
63700	Shipping/Freight	\$75
64300	University Services	\$30
66400	Licensing Fees	\$30
	<i>Total Non-Personal Services</i>	<u>\$3,921</u>
	Total Direct Costs	<u>\$68,181</u>
	Expenditures subject to F & A Costs	<u>\$68,181</u>
89900	Facilities & Admin Cost (% MTDC)	<u>\$6,818</u>
	Total Requested From UDOT	<u><u>\$74,999</u></u>

ATTACHMENT C

SPECIAL TERMS AND CONDITIONS

1. CONTRACT SCHEDULE, DELAYS AND EXTENSIONS: The CONTRACTOR shall begin the work required by this contract within seven calendar days following written notification by the STATE to proceed and shall prosecute the work diligently to the satisfaction of the STATE and in accordance with the contract schedule (Attachment B to this contract). Completion of the contract in accordance with the schedule of Attachment B is the responsibility of the CONTRACTOR. Claims for changes in the contract schedule or extra work that may affect the contract schedule shall be submitted in accordance with the applicable provisions of this contract. Upon application in writing by the CONTRACTOR, the STATE may allow an extension of time beyond the agreed upon schedule, but by doing so does not waive any of its rights under the contract to secure full and complete contract performance.

2. CHANGES AND EXTRA WORK: The CONTRACTOR agrees to make no charges or claims for extra compensation due to delays or hindrances within its control. The CONTRACTOR shall notify the STATE in writing within seven calendar days of alleged changes to the contract due to differing site conditions, extra work, altered work beyond the scope of the contract, or actions taken by the STATE that changed the contract Terms and Conditions. Work associated with the alleged change shall be suspended immediately and before any expenses are incurred. The written notification to the STATE shall include the following:

- (a) The date of occurrence and the nature and circumstances of the occurrence that constitute a change;
- (b) Name, title and activity of each STATE representative knowledgeable of the change;
- (c) Identification of any documents and the substance of any verbal communication involved in the change;
- (d) Basis for the claim that the work is not required by the contract; and,
- (e) Detailed estimate of additional time and/or costs that would be incurred due to the change.

Failure of the CONTRACTOR to provide the required notice under this subsection shall constitute a waiver of any and all claims that may arise as a result of the alleged change. Following submission of the notification and in the absence of directions received to the contrary from the STATE, the CONTRACTOR shall continue diligent prosecution of the work under the contract to the maximum extent possible without impacting conditions of the alleged change. Within 14 calendar days after receipt of notice, the STATE shall respond in writing, either confirming or denying that a change has occurred, and advising the CONTRACTOR of the method and manner of further performance. Confirmed changes shall be followed by a negotiated written modification to the contract in accordance with the Contract Modifications clause of this attachment to the contract.

3. DISPUTES: Claims by the CONTRACTOR for services, materials, or damages not clearly authorized by the contract or not ordered by the STATE by prior written authorization in accordance with provisions herein dealing with changes and extra work are not binding upon the STATE. The parties executing this contract agree to use arbitration or mediation, after exhausting applicable administrative reviews.

4. THIRD PARTY BENEFICIARY: It is specifically agreed between the parties executing this contract that it is not intended by these contract provisions to create in the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for personal injuries or property damage pursuant to the contract.

5. PERSONNEL REQUIREMENTS & KEY PERSONNEL: All officers, agents, volunteers, or employees of the CONTRACTOR shall have the proper training, skill, experience and licenses to meet acceptable standards of performance and as required by law. The key personnel identified in the Staffing

Plan (Attachment B to this contract) shall be in responsible charge of the work during the entire term of this contract. Any change in personnel from that specifically identified in the Staffing Plan shall be subject to prior written approval by the STATE.

If at any time during the duration of this contract officers, agents, volunteers, or employees of the CONTRACTOR that are performing work under this contract fail to demonstrate the required expertise represented in the staffing plan (Attachment B to this contract), fail to perform the work in a professional and skillful manner or fail to retain licenses required by law, then the CONTRACTOR shall remove such person or persons from the work. If, upon the written request of the STATE, the CONTRACTOR fails to remove such person or persons or fails to furnish skilled and experienced personnel for the proper performance of the work, the STATE may terminate this contract with cause in accordance with the termination provisions of this contract.

6. ASSIGNMENT AND SUBCONTRACTING: The CONTRACTOR shall not subcontract any of the work required by this contract

7. EMPLOYMENT OF STATE EMPLOYEES: The CONSULTANT agrees not to engage in any way the services on this contract of any present or former STATE employee who was involved as a decision maker in the selection or approval processes or who negotiated and/or approved billings or contract modifications for this contract.

8. RIGHT OF FUTURE DEVELOPMENT: Both parties agree that the STATE and third parties that may be under separate contract to the STATE may perform future additional developments or enhancements to information, designs, analyses, computer elements, devices, data, test results, reports, graphics, presentations, visual aids, intellectual innovations that are derived from the work products developed and delivered under this contract. The STATE shall not be obligated to obtain the services of the CONTRACTOR to perform these additional developments or enhancements. Likewise, the CONTRACTOR, after completion of this contract, may perform future additional developments or enhancements to the work products produced and delivered under this contract without the necessity of granting the STATE a license of use for these additional developments or enhancements.

9. USE OF PATENTED, COPYRIGHTED OR TRADEMARKED ITEMS: The CONTRACTOR shall not use, employ or incorporate into the work of this contract any materials, products, devices, processes, computer elements, designs, specifications, publications, graphics or visual media, that are protected by patents, copyrights or trademarks that have been secured by the CONTRACTOR before entering into this agreement or that are owned by third parties to this contract unless specifically authorized in this contract or by prior written approval from the STATE to do so. When such authorization is provided, the CONTRACTOR shall secure the rights of use of these patented, copyrighted or trademarked items for the STATE. An original executed copy of the right-to-use agreement shall be delivered to and approved by the STATE prior to commencing use of these item(s). The CONTRACTOR shall be responsible for payment of all royalties and fees for said use during the entire term of this contract. The CONTRACTOR and their surety shall indemnify and save harmless the STATE from any and all claims of patent, copyright or trademark infringement, or for costs, expenses, penalties and damages that may be obligated by reason of an infringement related to the work performed, services rendered or deliverables furnished under this contract. When Federal funds make up all or part of the remuneration under this contract, the United States Department of Transportation shall be named along with the STATE in all legal agreements covering use of patented, copyrighted or trademarked items.

10. CONFIDENTIALITY: If, in order to perform the work under this contract, the CONTRACTOR is given access to confidential or proprietary business, technical or financial information regarding persons, materials, products, devices, processes, designs, computer elements, analyses, or data, the CONTRACTOR agrees to treat such information as confidential and shall not appropriate such information to its own use or disclose it to third parties at any time, neither during the term of this contract nor after contract termination, without specific written authorization by the STATE to do so. The CONTRACTOR shall require adherence by its officers, agents, volunteers, and employees to these confidentiality provisions.

The foregoing obligations shall not apply if the said confidential or proprietary information:

- (a) Is found to be in the public domain at the time of receipt by the CONTRACTOR;
- (b) Is published or otherwise becomes part of the public domain after receipt by and through no fault of the CONTRACTOR;
- (c) Was in possession of the CONTRACTOR at the time of receipt, which the CONTRACTOR can demonstrate, as well as that it was not acquired directly or indirectly from the STATE or an agency of the State of Utah; or
- (d) Was received by the CONTRACTOR from a third party other than an agency of the State of Utah, which the CONTRACTOR can demonstrate did not require the CONTRACTOR to hold such information in confidence.

Also, the work products to be developed, gathered or delivered under this contract, including materials, products, devices, processes, computer elements, designs, analyses, data, specifications, findings, recommendations, and conclusions, shall be considered confidential by the CONTRACTOR during the term of this contract in accordance with the above provisions. If the contract is terminated with or without cause prior to completion or delivery of the work products, or their acceptance by the STATE, the CONTRACTOR agrees to maintain the confidentiality of the work products for a period of not less than one calendar year following the date of termination.

The STATE at its sole discretion may choose to release into the public domain all or part of the work products developed under this contract prior to completion of the work or expiration of the contract. In this case the CONTRACTOR is relieved of the above described confidentiality requirements for that portion of the work that is released by the STATE.

It is further specifically agreed between the parties executing this contract that the above provisions regarding confidentiality shall be interpreted and administered in accordance with State and Federal non-disclosure and disclosure laws, rules, regulations and policies governing patents, copyrights, trademarks, rights of privacy and freedom of public information.

11. INSPECTION AND REVIEW: It is agreed that authorized representatives of the STATE and other third parties designated by the STATE shall have the right to inspect and review the work in progress at any time during normal business hours or by appointment.

All deliverables furnished under this contract shall be subject to the inspection and review of the STATE and other third parties designated by the STATE to perform technical or fiscal inspections or reviews. The CONTRACTOR shall be required to perform such additional work as may be necessary to meet the objectives of the work plan (Attachment B to this contract) and to make clarifications or correct errors uncovered during reviews or inspections without undue delays and without additional cost to the STATE.

12. PROGRESS AND PROGRESS REPORTS: In addition to the other deliverables (Attachment B to this contract), the CONTRACTOR shall prepare fiscal and technical progress reports following the format established by the STATE and in sufficient detail to document the progress of the work and to support the claim for payment. As a minimum the progress reports shall identify the deliverables completed, for which payment requests are being made, a brief synopsis of the deliverable contents, and the invoice number of the payment request. Anticipated problems in completing future deliverables in accordance with the technical and schedule requirements of the contract shall be identified if applicable and the background behind them. Payments will not be made without a supporting progress report.

13. MEETINGS/CONFERENCES: Progress and review meetings/conferences will be held as required and not less than at quarterly intervals. Either party may request a meeting/conference

14. REPORTS, DOCUMENTATION AND OTHER MEDIA PRODUCTS: Progress, interim and final reports, white papers, technical notes and other documentation and media products produced as deliverables under this contract shall conform to the highest standards for literary style, grammar, spelling, graphic art and technical accuracy. They shall be subject to review by the STATE, its representatives and

agents, as well as other funding agencies and partners, prior to publication and distribution. If the documentation contains contributions by the STATE or third parties, these entities shall be fully acknowledged in the documentation. Except where acknowledged otherwise, the CONTRACTOR shall be solely responsible and liable for the accuracy, completeness and originality of the contents, findings and conclusions. The responsible person(s) or principal investigator(s) for the CONTRACTOR listed in Staffing Plan (Attachment B to this contract) shall be the primary author(s) of the documentation.

The above-described documentation shall not contain advertisements or attempts to promote materials, equipment, products or services supplied by or the special interests of the CONTRACTOR or third parties to this contract. The documentation shall be free of libel or slander relating to individuals, organizations and groups or their materials, equipment, products or services.

Interim reports, when required, shall be concise and focused on the specified aspects of the work. They may be submitted in draft form. They are expected to form a component of the draft final report. They are intended for review by the STATE and other sponsoring entities and not for publication. Review comments received from the STATE, either written or in conference, shall be addressed by the CONTRACTOR in the final report. The interim reports need not be reissued with corrections addressing these comments.

The CONTRACTOR shall submit a final report that summarizes the detailed research findings of study, including the data collection plan, the methodology used in and the results obtained from the detailed data reduction, the results of analysis and the comparisons with existing theories and findings of other researchers in the field. The final report shall also summarize the contents of any interim reports furnished as well as provide a background for the subject matter and the justification for funding the research. It shall include comparisons with current design practice and recommendations for implementation of the findings, as well as conclusions and acknowledgments. Abstracts of no more than 250 words and executive summaries of no more than 10 pages shall be developed that provide synopses of the final report. The final report shall be a complete, stand-alone document intended for publication by the STATE. Review comments received from the STATE, either written or in conference, shall be addressed by the CONTRACTOR in the final version of the final report.

Reports intended for publication by the STATE shall include the following minimum elements:

- Standard UDOT/FHWA title and abstract pages;
- Table of contents;
- List of Figures and Tables;
- Executive Summary;
- Body of report;
- Implementation Plan and/or recommendations;
- Acknowledgments;
- List of References; and
- Appendices.

The body of reports intended for publication shall summarize the subject matter in sufficient detail to support the recommendations and conclusions. Charts, graphs, figures, tables, illustrations and photographs shall be used extensively to enhance communication. Graphs and tables are to be neat in appearance with axis clearly marked with proper units. A legend is to be provided on every graph that clearly describes acronyms and other symbols. Graphical element patterns and symbols should be carefully chosen to ensure legibility after reproduction. Raw data, detailed analysis and theoretical developments shall be contained in appendices.

The Implementation Plan should contain sufficient information to: a) provide direction on steps needed to implement the technology or products developed under this contract; b) provide recommendation on staffing needs and resources, list individuals and organizational roles and responsibilities for implementation; and c) provide estimated cost of implementation. Technologies or products could include

any of the following, but not limited to: written specifications; policies and procedures; newsletters; research technical reports; training sessions; laboratory testing results; workshops, and technology demonstrations. If the technology or products are not developed to a state of implementation, specific recommendations should be provided on what is needed to bring it to such a state.

References to other documents containing the raw data, detailed analysis or theoretical developments may be cited to avoid repetition, providing these documents are published prior to the subject reports. If references are used, a sufficient summarization shall be included in the reports to communicate both the findings and conclusions of the authors cited and their significance to the recommendations and conclusions of the subject reports. Also, full bibliographic acknowledgments shall be made for all references cited.

Reports intended for publication by the STATE shall conform to the format criteria established by the STATE. After all review comments are considered and corrections are made by the CONTRACTOR, one (1) original final draft version of the report suitable for photocopying shall be delivered to the STATE, along with a full and complete electronic copy. If the final draft version is over 50 pages, the report shall be formatted for double-sided reproduction and/or printing.

Unless otherwise approved in writing by the STATE, electronic versions of documents or work products required to be delivered under this contract shall be produced in the file formats native to the computer applications adopted as standard by the STATE. The electronic delivery media, as well as photographic, audio and video deliverables shall conform to the format established by the STATE.

The reports required under this contract are intended to be summary in nature. In addition to the report to be published by the STATE as outlined above, it is anticipated that detailed aspects of the work performed under this contract may be published by others (thesis, journal or articles). However, work in progress shall be subject to the confidentiality provisions of this contract.

15. REQUIREMENTS FOR COMPUTER ELEMENTS: Hardware, firmware and/or software elements that the CONTRACTOR procures, furnishes, licenses, sells, integrates, creates and/or enhances for the STATE under this contract shall achieve the specific objectives specified in the work plan (Attachment B to this contract).

16. CONTRACT AMOUNT AND PAYMENT PROVISIONS: The amount due for the work performed under this contract may be based on the fixed amount as described in Attachment B to this contract.

The total contract amount due shall be paid in lump sum partial payments according to the schedule and the list of deliverables and payments contained in Attachment B to this contract, but not more than the fixed price amount of this contract and written modifications thereto.

As a minimum, the invoice shall list the name of the CONTRACTOR, the STATE Contract Number, the invoice date and the remittance address. Also, the invoices shall list the deliverable item number from the List of Deliverables shown in Attachment B, its description, the payment basis and the actual partial payment amount due. Invoices for cost reimbursement deliverables shall itemize each cost entry, showing the units, the unit costs and the total amount of each item. In addition, invoices shall be accompanied by a progress report and specified deliverables listed in Attachment B.

Invoices for payment shall be submitted upon delivery of each item listed in the List of Deliverables shown in Attachment B, but not more often than monthly. Invoices and progress reports shall be submitted to:

Utah State Department of Transportation
Attn.: Doug Anderson, P.E.
Research Project Manager
Box 148410
Salt Lake City, UT 84114-8410

The STATE shall process invoices for payment within thirty (30) days after receipt. However, the STATE, at its sole discretion and after giving the CONTRACTOR written notification, may delay payment of invoices that are disputed or that are submitted without the specified forms, reports and deliverables as outlined.

17. CONTRACTOR SUBSTANCE ABUSE:

The CONTRACTOR shall ensure that its agents and employees are not under the influence of, and do not use, possess, consume, transfer, manufacture, or sell or attempt to sell any form of alcohol, intoxicant, narcotic, depressant, stimulant, hallucinogen or any illegal drug or mind or perception-altering substance (except the taking of a prescribed drug under the direction of a licensed, qualified physician where the medication does not affect judgment, perception or performance) while on the STATE's property or while performing work or engaging in the activities called for under this contract. In each case where drugs that could have any effect upon an individual's ability to perform work are being taken under the direction of a licensed physician, the agents and employees of CONTRACTOR and all of its subcontractors taking the drugs shall be required to notify CONTRACTOR who shall maintain a list of those agents and employees. Failure to meet any of the above requirements or correct noted deficiencies are grounds for contract termination.

The above requirements shall not be exercised so as to infringe upon the rights of government employees secured under the Fourth and Fourteenth Amendments to the Constitution of the United States.

18. INSURANCE: For all work provided under this contract, the CONTRACTOR shall maintain their own insurance of the types and with the limits as set forth hereinafter at their own expense, with coverage that recognizes the STATE's Project Sites. CONTRACTOR shall promptly furnish the STATE, or its designated representative, certificates of insurance giving evidence that all required insurance are in force. Specific requirements for certificates of insurance shall be as delineated hereafter. All insurance shall be kept in force through the entire duration of the Work.

(a) Insurance Types and Limits:

(1) Workers Compensation:

CONTRACTOR/ subcontractors shall provide, at their own expense, Workers' Compensation Insurance to cover full liability under the Workers' Compensation Laws of the jurisdiction in which the Project is located at the statutory limits required by said jurisdiction's laws.

(2) Automobile Liability:

CONTRACTOR shall provide, at their own expense, Automobile Liability Insurance for claims arising from the ownership, maintenance, or use of a motor vehicle at, upon, or away from the Project Site. The insurance shall cover all owned, non-owned, and hired automobiles used in connection with the Work, with the following minimum limits of liability:

\$1,000,000 Combined Single Limit Bodily Injury and Property Damage Per Occurrence

(3) Valuable Papers and Records:

Valuable Papers and Records and/or Electronic Data Processing (Data and Media) Coverage. The CONTRACTOR/subcontractor shall provide coverage for the physical loss of or destruction to their work product including drawings, specifications and electronic data and media, if available.

(b) Certificates of Insurance:

Upon execution of the contract and before issuance of a Notice to Proceed the CONTRACTOR shall provide to the STATE a Certificate of Insurance setting out coverages, limits and amendments to the certificate necessitated by changes to the work to be performed under the contract until the date of final payment. Said certificate shall state that the policies required have been endorsed to provide that the insurers issuing said policies shall give the STATE not less than thirty (30) days prior written notice in the event of cancellation. Any coverage written on a claims-made basis shall be indicated as such on the

certificate of insurance. And, except for CONTRACTORS that are STATE, agencies, educational institutions, foundations or other entities of the State of Utah, said certificates shall state that all policies required have been endorsed to name the State of Utah and the STATE as Additional Insured. Certificates shall be in a form and content satisfactory to the STATE. CONTRACTORS or subcontractors of all tiers that are STATE's, agencies, educational institutions, foundations or other entities of the State of Utah shall obtain certificates for the required insurance from the State of Utah Risk Manager.

All insurance described in this contract shall be written by an insurance company or companies authorized to do business in Utah and satisfactory to the STATE. No party subject to the provisions of this contract shall violate or knowingly permit to be violated any of the provisions of the policies of insurance described herein. Insurance companies with a Best's rating "A- VIII" or better or with the Utah State Risk Management Fund should provide all insurance.

All insurance policies, except Professional Liability Insurance, shall be primary and non-contributing with, and not in excess of, any other insurance available to the STATE.

(c) Other Insurance:

Any type of insurance or any increase of limits of liability not described herein that the CONTRACTOR requires for its own protection or on account of any statute shall be its own responsibility and at its own expense. CONTRACTOR shall have the responsibility to make sure their insurance programs fit their particular needs, and it is their responsibility to arrange for and secure any insurance coverage, which they deem advisable, whether or not specified above.

(d) No Release:

The carrying of the above-described insurance shall in no way be interpreted as relieving the CONTRACTOR of any other responsibility or liability under this agreement or any applicable law, statute, regulation or order.

19. DUTIES OF THE STATE: The STATE shall provide access to and make provisions for the CONTRACTOR to enter upon all work areas, both public and private, deemed necessary for completion of the work under this contract.

The STATE shall give prompt consideration to all reports, plans, proposals and other documents presented by the CONTRACTOR.

20. OWNERSHIP OF WORK PRODUCTS PROCURED OR DEVELOPED UNDER THIS CONTRACT: The STATE retains ownership of all materials, products, devices, equipment, facilities, data, test results, reports, graphics, presentations, visual aids, computer elements, software license agreements, testing apparatus, or services that are developed, procured, constructed, installed or performed under this contract and that become an integral part of or that are intended to facilitate or enhance the use, operation, maintenance, documentation or understanding of the deliverables of this contract. On the other hand, the CONTRACTOR may secure through patents, copyrights or trademarks, the ownership of information, designs, analyses, processes, devices, and the intellectual innovations that may be created or developed under this contract. However, the CONTRACTOR agrees to abide by the confidentiality provisions of this contract. The CONTRACTOR shall notify the STATE in writing within 30 calendar days of any applications for patents, copyrights or trademarks related to work under this contract. In addition, through provisions provided by law, the CONTRACTOR grants to the STATE a royalty-free, nonexclusive, and irrevocable license to use the work products delivered under this contract, for which patents, copyrights or trademarks are secured by the CONTRACTOR. These license provisions shall be considered one of the deliverables due under this contract. When federal transportation funds make up all or part of the remuneration under this contract (as documented elsewhere in these supplemental provisions), the United States Department of Transportation shall also be named as a grantee, along with the STATE, in the license provisions described above. The right of the CONTRACTOR to apply for patents, copyrights or trademarks shall be limited to the statutory period defined by United States Code.

21. **NOTICES:** Legal notices applicable under this contract shall be in writing and shall be delivered by certified mail to the following designated individuals for the CONTRACTOR and the STATE, with a copy sent to the technical representative designated below:

- **CONTRACTOR'S Contract Representative:**
 Elliot C. Kulakowski, Ph. D.
 University Of Utah,
 Office of Sponsored Projects
 Salt Lake City, UT 84102
 Business Phone: (801) 581-3008
 Business Fax: (801)
 Email: Elliott.kulakowski@osp.utah.edu
- **STATE'S Contract Representative**
 Denice McCarthy, Procurement
 Utah State Department of Transportation
 Box 148260
 Salt Lake City, UT 84114-8260
 Business Phone: (801) 965-3836
 Business Fax: (801) 965-4073
 Email: Dmccarthy@utah.gov

Technical representatives for the CONTRACTOR and the STATE that are to receive or respond to technical questions or comments, deliverables, reviews, and other non-legal correspondence except invoices shall be the following individuals:

- **CONTRACTOR'S Technical Representative:**
 Elliot Kulakowski, Ph. D.
 University of Utah
 Office of Sponsored Projects
 1471 Federal Way
 Salt lake City, UT 84102
 Business Phone: (801) 581-36903
 Business Fax: (801) 581-3007
 Email: Elliott.kulakowski@osp.utah.edu
- **STATE'S Technical Representative:**
 Doug Anderson,
 Utah Department. of Transportation
 Research Division
 Box 148410
 Salt Lake City, UT 84114-8410
 Bus. Phone: (801) 965-4377
 Bus. Fax: (801) 965-4796
 Email: dianderson@utah.gov

APPLICATION AND WAIVER UDOT/DPS FITNESS CENTER

In exchange for the privilege of using the services, equipment, and activities provided at the UDOT/DPS Fitness Center (Fitness Center), certify and affirm the following:

1. I have read and reviewed all of the material attached with this form;
2. I will complete any mandatory training, instruction, or certification required by the Fitness Center before using equipment or services;
3. I will abide by any rules or policies issued by UDOT or the State pertaining to the use of the Fitness Center and understand that failure to comply with them may result in my expulsion withdrawal of the privilege to use the Fitness Center;
4. I have read and completed the Health Status Questionnaire, which is not to be turned in to the Fitness Center or UDOT, but used for my own review;
5. I understand that I am solely responsible for my health and that neither the Fitness Center, UDOT/DPS, nor any of its employees, contractors, officers, or agents, are required to verify the accuracy of my answers to the Health Status Questionnaire or require a doctor's permission before using the Fitness Center;
6. I represent that, to the best of my knowledge, I am free of any known heart or other serious health problems that would prevent me from using the Fitness Center;
7. I understand that the Fitness Center is unsupervised and no one will be present to observe, regulate, or aid me during my use and that neither the Fitness Center nor UDOT/DPS are qualified to provide professional instruction in the proper use of weight or aerobic equipment;
8. I recognize that my use of the Fitness Center is voluntary and, therefore, I assume all risk from my use, including any injuries occurring as a result of my use, or that I may cause to someone else, while using the Fitness Center;
9. I agree to release, acquit, and forever discharge and hold harmless the State of Utah, its agencies, employees, officers, contractors, and agents for any injuries or liability that might result from my use of the Fitness Center. I further hold harmless, indemnify, and release the above-mentioned entities and persons from all liability, negligence, or breach of warranty associated with injuries or damages and from any claim by me, my family, estate, heirs, or assigns, arising from or in any way connected to the activities associated with the Fitness Center.

BY SIGNING THIS APPLICATION AND WAIVER, I INDICATE MY AGREEMENT WITH
AND UNDERSTANDING OF ITS TERMS AND CONDITIONS, INCLUDING THOSE
CONTAINED IN MATERIAL ATTACHED TO THIS FORM.

Name (please print)

Signature:

Work Telephone Number: UDOT Division, Group, or Region

Email Address: